

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30461 of 2021

Arising Out of PS. Case No.-753 Year-2020 Thana- ARA NAWADA District- Bhojpur

CHANDAN KUMAR RAI @ CHANDAN RAI Son of Ramakant Ray
Resident of Mohalla- Bishnu Nagar, Ara, P.S.- Ara Nawada, District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 51080 of 2021

Arising Out of PS. Case No.-753 Year-2020 Thana- ARA NAWADA District- Bhojpur

VITU KUMAR RAY @ BITTU KUMAR RAI @ BITTU KUMAR SON OF
VIJAY KUMAR RAY @ VIJAY RAY R/O VILLAGE- BASRA, P.S.-
SIKARHATTA, DISTRICT- BHOJPUR, BIHAR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 30461 of 2021)

For the Petitioner/s : Mr. Vikramdeo Singh, Advocate

For the informant : Mr. Madanjeet Kumar, Advocate

For the State : Mr. Ravi Prakash, APP

(In CRIMINAL MISCELLANEOUS No. 51080 of 2021)

For the Petitioner/s : Mr. Ravindra Kumar, Advocate

For the Informant : Mr. Madanjeet Kumar, Advocate

For the State : Mr. Ram Sevak Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 03-03-2022 Heard learned counsel for the petitioners and
learned Additional Public Prosecutor appearing for the State.

Petitioners seek regular bail in connection with Ara
Nawada P.S. Case No. 753 of 2020 registered for the offences
punishable under Sections 302, 307, 120B of the Indian Penal



Code 1860 and Section 27 of the Arms Act.

The allegation, as per the First Information Report, is that while the informant and his son were going towards the market, they saw that his another son Upendra Kumar Singh @ Mithun Singh and his friend Prince Bajrangi were talking, and in the meanwhile, some miscreants arrived at the place of occurrence, and opened fire upon his son Mithun Singh and his friend Prince Bajrangi, due to which, the son of the informant succumbed to the injury and his friend Prince Bajrangi was taken to the hospital. The occurrence is said to have taken place on 27.9.2020.

Learned counsel for the petitioners submits that the petitioners have falsely been implicated in this case on the basis of concocted story and as an after thought inasmuch as admittedly, the occurrence had taken place on 27.9.2020 at about 4:30 PM, the inquest report was prepared on 27.9.2020 at about 6:00 PM and the postmortem was held on 27.9.2020 itself at 7:30 PM in the evening. Learned counsel further submits that the First Information Report has been lodged by the informant based upon his written statement on 28.9.2020 at about 4:00 PM in the afternoon, i.e. after preparation of inquest report and postmortem report, in which, the petitioner Bittu Kumar of Cr.



Misc.51080/2021 has falsely been implicated, and so far as petitioner Chandan Kumar, is concerned, he is not named in the First Information Report, but during course of investigation, on the basis of confessional statement of co-accused Suman Kumar, he has been made accused in this case on the ground that the petitioner had given a sum of Rs.20,000/- to the shooter of Deepak Kumar who had inimical term due to land dispute with the informant and his son. Learned counsel also submits that the statement of the injured witness namely, Prince Bajrangi was recorded before the Police on 27.9.2020 itself. However, he did not disclose the name of petitioner Bittu Kumar as an assailant in his statement, but in his subsequent statement, recorded by the Police on 6.10.2020 in paragraph-57 of the case diary, the injured witness has now taken the name of petitioner Bittu Kumar as one of the assailants.

On the other hand, learned counsel for the informant and State vehemently opposed the prayer for bail and referring to the case diary submit that in the First Information Report as well as in the further statement recorded during course of investigation in paragraph-20 of the case diary, the informant who is an eye witness, has stated that the petitioner Bittu Kumar along with others had fired upon the son of the informant



namely, Mithun Singh, and another son of the informant Dharmendra Kumar Singh who was also present at the place of occurrence along with the informant, and is an eye witness, has also disclosed the name of petitioner Bittu Kumar as one of the assailants. He next submits that Prince Bajrangi who is an injured and eye witness to the occurrence, in his statement recorded on 6.10.2020, has also disclosed the name of the petitioner as assailant and there is *prima facie* evidence against the petitioners to connect them in the present offence. He next submits that the petitioners have got criminal antecedents.

Learned counsel for the petitioners, in reply, submits that in so far as criminal antecedents of the petitioners are concerned, prior to the occurrence, the petitioners had no criminal antecedents and after lodging of the present First Information Report, they have falsely been implicated in a case registered under the Arms Act.

Regards being had to the submission made by the parties and taking into consideration the materials on record, the fact that the present FIR has been lodged after preparation of inquest report and the postmortem report and the injured witness in his earlier version did not disclose the name of the petitioner Bittu Kumar as an assailant, the name of petitioner Chandan



Kumar has come on the basis of confessional statement of co-accused only and except the confessional statement, no material has been brought on record against the petitioner Chandan Kumar, I am inclined to grant regular bail to the petitioners.

Accordingly, let the petitioners, above named, be released on regular bail on furnishing bail bonds of Rs.20,000/- (Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Ara (Bhojpur) in connection with Ara Nawada P.S. Case No. 753 of 2020 subject to the condition that both the parties shall participate in the trial.

(Anil Kumar Sinha, J)

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